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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 110210132-1275-02]

RIN 0648-XA948

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; General Category Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the General category fishery for large medium and giant Atlantic bluefin tuna (BFT) until the General category reopens on June 1, 2012. This action is being taken to prevent overharvest of the General category January BFT subquota.

DATES: Effective 11:30 p.m., local time, January 22, 2012, through May 31, 2012.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978-281-9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, consistent with the allocations established in the 2006 Consolidated Atlantic

Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and subsequent rulemaking.

NMFS is required, under § 635.28(a)(1), to file a closure notice with the Office of the Federal Register for publication when a BFT quota is reached or is projected to be reached. On and after the effective date and time of such notification, for the remainder of the fishing year, or for a specified period as indicated in the notification, fishing for, retaining, possessing, or landing BFT under that quota category is prohibited until the opening of the subsequent quota period or until such date as specified in the notice.

The current General category baseline quota is 435.1 mt, with 23.1 mt allocated for the January time period. On November 30, 2011, NMFS published a final rule to address adjustments to the General and Harpoon category regulations. Among other actions, this final rule allowed the General category BFT season to remain open until the January subquota is reached or March 31 (whichever happens first).

Based on the best available BFT landings information for the General category BFT fishery (i.e., 17 mt of the available 23.1 mt landed as of January 17, 2012), NMFS has determined that the General category January subquota will be reached by January 22, 2012. Therefore, through May 31, 2012, fishing for, retaining, possessing, or landing large medium or giant BFT by persons aboard vessels permitted in the Atlantic Tunas General and HMS Charter/Headboat categories (while fishing commercially) must cease at 11:30 p.m. local time on January 22, 2012. The General category will reopen automatically on June 1, 2012, for the June through August subperiod. This action is taken consistent with the regulations at §§ 635.27(a)(1)(iii) and 635.28(a)(1). The intent of this closure is to prevent overharvest of the General category January BFT subquota.

Limited catch and release fishing may continue subject to the requirements of the catch-and-release and tag-and-release programs. Fishermen may catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. Fishermen are also reminded that all BFT that are released must be handled in a manner that will maximize survivability, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the Careful Catch and Release brochure available at www.nmfs.noaa.gov/sfa/hms/.

If needed, subsequent General category adjustments will be published in the Federal Register. In addition, fishermen may call the Atlantic Tunas Information Line at (888) 872-8862 or (978) 281-9260, or access www.hmspermits.gov, for updates.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the Consolidated HMS FMP provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. The closure of the General category January BFT fishery is necessary to prevent overharvest of the General category January BFT subquota. NMFS provides notification of closures by publishing the notice in the Federal Register, e-mailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the Atlantic Tunas Information Line and on www.hmspermits.gov.

These fisheries are currently underway and delaying this action would be contrary to the public interest as it could result in excessive BFT landings that may result in future potential quota reductions for the General category. NMFS must close the General category January BFT fishery before landings of large medium and giant BFT exceed the available subquota. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under §§ 635.27(a)(1)(iii) and 635.28(a)(1), and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 et seq. and 1801 et seq.

Dated: January 19, 2012

Carrie Selberg,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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